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Civil
Case Information
Tenth Judicial Circuit of Raleigh County

13-C-763
Judge: ROBERT A. BURNSIDE, JR
GARNETT BOWYER VS. AMERICAN CORADIUS INTERNATIONAL, LLC

Plaintiff(s) - (If Name is blue then point to name for additional information)
BOWYER, GARNETT

Plaintiff Attorney(s)
PAUL W. ROOP, II

Defendant(s) - (If Name is blue then point to name for additonal information)
AMERICAN CORADIUS INTERNATION

Defendant Attorney(s)
N/A

Case Information:

Date Filed: 09/24/2013
Case Type:

Events:

LINE	DATE	ACTION / RESULT	Document
1	09/24/2013	CASE FILED-ISSUED SUMMONS AND COMPLAINT AND RETURNED TO ATTY	View Document
2		FOR SERV. CNS (JED)	
3	10/07/2013	REC RET OF SERVICE "ACCEPTED" BY SOS ON BEHALF OF AMERICAN	View Document
4		CORADIUS ON 10/01/13 / COMPLAINT. (SW) (JED)	
5	10/09/2013		View Document



REC RET OF SERV OF PROCESS FROM SOS
SIGNED BY (SEE SIGNATURE) ON
6 BEHALF OF AMERICAN CORADIUS INTERNATIONAL
LLC ON 10-3-13.KB(BLS)
7 11/01/2013 DEFT, AMERICAN CORADIUS INTERNATIONAL
LLC'S NOTICE OF FILING
8 NOTICE OF REMOVAL/ COS. BJC (SW)

[View Document](#)

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IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

**GARNETT BOWYER and
ALBERTA BOWYER, his wife**

Plaintiffs,

vs.

CIVIL ACTION NO. 13-C-

**AMERICAN CORADIUS
INTERNATIONAL LLC, a
Delaware limited liability company,**

Defendant,

COMPLAINT

1. The Plaintiffs, Garnett Bowyer and Alberta Bowyer, his wife, are and were at all relevant times hereto residents of Scott Depot, Putnam County, West Virginia.
2. The Plaintiffs, Garnett Bowyer and Alberta Bowyer, are persons who fall under the protection of the *Telephone Consumer Protection Act*, 47 U.S.C. §227 [hereinafter "TCPA"].
3. The Defendant, American Coradius International LLC [hereinafter, "Coradius"], is a Delaware limited liability company with its principal place of business at 2420 Sweet Home Road, Suite 150, Buffalo, NY 14228-2244. The said Defendant may be served by the West Virginia Secretary of State through its registered agent, Corporation Service Company, 209 West Washington Street, Charleston, WV, 25302 by delivering a copy of the process herein to the said agent at said address.
4. The Defendant maintains records of each call placed to the Plaintiffs by date, time called, duration of call, the identity of Defendant's employee or representative and notes or codes placed upon such record by the Defendant's employee or representative.
5. The Defendant called Plaintiffs repeatedly using an automatic telephone dialing system and left prerecorded voice messages for Plaintiffs without the express consent of the Plaintiffs.
6. Alternatively, Defendant called Plaintiffs repeatedly using an automatic telephone dialing

763-13
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SEP 24 AM 11:34
CIRCUIT CLERK

- system and left prerecorded voice messages for Plaintiffs after any permission which Defendant might have had to make such calls to the Plaintiffs' telephone was revoked.
7. At no time have the Plaintiffs expressly authorized the Defendant to make calls to the Plaintiffs using an automatic telephone dialing system or leave prerecorded voice messages for Plaintiffs.
 8. The Defendant utilized a system in its calls to allow call recipients to opt out of such calls if the call had been placed in error. Plaintiffs exercised the option to opt out by pressing the dial pad key corresponding to a response which indicated that the party called was not the party to whom the call was directed. Nevertheless, Defendant continued to place such calls to Plaintiffs' cellular phone.
 9. Based upon information and belief, the Defendant wilfully placed calls by use of an automatic dialer or containing a pre-recorded message to the telephone number held by Plaintiffs.
 10. Based upon information and belief, the Defendant placed calls to the Plaintiffs with the intent to annoy, harass and threaten the Plaintiffs.

COUNT ONE

{Strict Liability for Violation of *TCPA*}

11. The Plaintiffs incorporate the preceding paragraphs as if set forth fully herein.
12. The Defendant has violated the *TCPA* by placing calls to the Plaintiffs on Plaintiffs' cellular or residential telephone using an automatic telephone dialing system or by leaving calls with a prerecorded message without the express permission of the Plaintiffs.
13. Alternatively, Defendant has violated the *TCPA* by placing calls to the Plaintiffs on Plaintiffs' cellular or residential telephone using an automatic telephone dialing system or by leaving calls with a prerecorded message after the Plaintiffs revoked any permission of the Defendant to place such calls.
14. The foregoing violations of the *TCPA* were committed willfully or knowingly by the Defendant or its agents.

COUNT TWO

{Violation of West Virginia Consumer Credit and Protection Act}

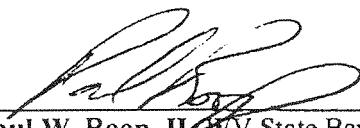
15. The Plaintiffs incorporate the preceding paragraphs as if set forth fully herein.

16. The Defendant has engaged in repeated violations of Article 2 of the *West Virginia Consumer Credit and Protection Act* [hereinafter, "WVCCPA"], including but not limited to:
- a. Engaging in unreasonable or oppressive or abusive conduct towards the Plaintiff in connection with the attempt to collect a debt by placing telephone calls to the Plaintiff in violation of *West Virginia Code* §46A-2-125(b);
 - b. Causing the Plaintiff's phone to ring or engaging persons, including the Plaintiff, in telephone conversations repeatedly or continuously or at unusual times or at times known to be inconvenient, with the intent to annoy, abuse or oppress the Plaintiff in violation of *West Virginia Code* §46A-2-125(d);
 - c. Using generally unfair or unconscionable means to collect a debt from Plaintiff in violation of *West Virginia Code* §46A-2-128 by placing calls to the Plaintiffs on Plaintiffs' cellular or residential telephone using an automatic telephone dialing system or by leaving calls with a prerecorded message without the express permission of the Plaintiffs or after such permission was revoked in violation of the *TCPA*.

WHEREFORE, the Plaintiffs demand judgment against the Defendant for actual damages, statutory damages pursuant to both the *TCPA* and the *WVCCPA*, punitive damages, reasonable attorney's fees, costs and for such other and further relief as this Court may deem appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

**GARNETT BOWYER and
ALBERTA BOWYER,
BY COUNSEL**



Paul W. Roop, II (WV State Bar #5406)
ROOP LAW OFFICE, L.C.
111 Morning Star Lane
Beckley, WV 25801
Tel. (304) 255-7667

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

**GARNETT BOWYER and
ALBERTA BOWYER, his wife**

Plaintiffs,

vs.

CIVIL ACTION NO. 13-C-

763-B

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INTERNATIONAL LLC, a
Delaware limited liability company,**

Defendant,

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5. The Defendant called Plaintiffs repeatedly using an automatic telephone dialing system and left prerecorded voice messages for Plaintiffs without the express consent of the Plaintiffs.
6. Alternatively, Defendant called Plaintiffs repeatedly using an automatic telephone dialing

- system and left prerecorded voice messages for Plaintiffs after any permission which Defendant might have had to make such calls to the Plaintiffs' telephone was revoked.
7. At no time have the Plaintiffs expressly authorized the Defendant to make calls to the Plaintiffs using an automatic telephone dialing system or leave prerecorded voice messages for Plaintiffs.
 8. The Defendant utilized a system in its calls to allow call recipients to opt out of such calls if the call had been placed in error. Plaintiffs exercised the option to opt out by pressing the dial pad key corresponding to a response which indicated that the party called was not the party to whom the call was directed. Nevertheless, Defendant continued to place such calls to Plaintiffs' cellular phone.
 9. Based upon information and belief, the Defendant wilfully placed calls by use of an automatic dialer or containing a pre-recorded message to the telephone number held by Plaintiffs.
 10. Based upon information and belief, the Defendant placed calls to the Plaintiffs with the intent to annoy, harass and threaten the Plaintiffs.

COUNT ONE

{Strict Liability for Violation of *TCPA*}

11. The Plaintiffs incorporate the preceding paragraphs as if set forth fully herein.
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13. Alternatively, Defendant has violated the *TCPA* by placing calls to the Plaintiffs on Plaintiffs' cellular or residential telephone using an automatic telephone dialing system or by leaving calls with a prerecorded message after the Plaintiffs revoked any permission of the Defendant to place such calls.
14. The foregoing violations of the *TCPA* were committed willfully or knowingly by the Defendant or its agents.

COUNT TWO

{Violation of West Virginia Consumer Credit and Protection Act}

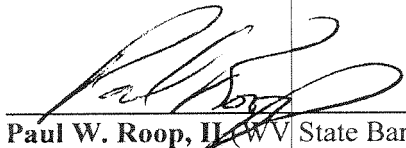
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 - b. Causing the Plaintiff's phone to ring or engaging persons, including the Plaintiff, in telephone conversations repeatedly or continuously or at unusual times or at times known to be inconvenient, with the intent to annoy, abuse or oppress the Plaintiff in violation of *West Virginia Code* §46A-2-125(d);
 - c. Using generally unfair or unconscionable means to collect a debt from Plaintiff in violation of *West Virginia Code* §46A-2-128 by placing calls to the Plaintiffs on Plaintiffs' cellular or residential telephone using an automatic telephone dialing system or by leaving calls with a prerecorded message without the express permission of the Plaintiffs or after such permission was revoked in violation of the *TCPA*.

WHEREFORE, the Plaintiffs demand judgment against the Defendant for actual damages, statutory damages pursuant to both the *TCPA* and the *WVCCPA*, punitive damages, reasonable attorney's fees, costs and for such other and further relief as this Court may deem appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

**GARNETT BOWYER and
ALBERTA BOWYER,
BY COUNSEL**



Paul W. Roop, II (WV State Bar #5406)
ROOP LAW OFFICE, L.C.
111 Morning Star Lane
Beckley, WV 25801
Tel. (304) 255-7667

SUMMONS

CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

**GARNETT BOWYER and
ALBERTA BOWYER, his wife**

Plaintiffs,

vs.

Civil Action No: 13-C-

763-B

**AMERICAN CORADIUS
INTERNATIONAL LLC, a
Delaware limited liability company,**

Defendant.

To the above-named Defendant: American Coradius International LLC
c/o Corporation Service Company
209 West Washington Street
Charleston, WV 25302

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon **Paul W. Roop, II, Attorney-at-Law**, plaintiffs' attorney, whose address is **P.O. Box 1145, Beckley, West Virginia 25802**, an answer, including any related counterclaim you may have, to the complaint if filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated: 9/24/13


Clerk of Court

PLAINTIFFS'
Case Information Sheet
(Two copies to be filed with Memorandum to the Clerk)

PLAINTIFFS: Garnett Bowyer and Alberta Bowyer

CASE NO.: 13-C- 763-B

DEFENDANT: American Coradius International, LLC

II. TYPE OF CASE:

DOMESTIC RELATIONS

- ☐ Adoption
- ☐ Contested Divorce
- ☐ Annulment/separate
- ☐ URESA
- ☐ Paternity

- ☐ Other Domestic
Uncontested Divorce

TORTS

- ☐ Asbestos
- ☐ Auto Negligence
- ☐ Professional
- ☐ Personal Injury
- ☐ Product Liability

- ☐ Other Tort

OTHER CIVIL

- ☐ Contract
 - ☐ Action on Note
 - ☐ Real Property
 - ☐ Mental Health
 - ☐ Appeal from
Administrative Agency
 - ☐ Appeal from
Magistrate Court
 - ☒ Miscellaneous
Civil
 - ☐ Extraordinary
Remedy
- Explain:

III. JURY DEMAND: ☒ Yes ☐ No

IV. MONETARY RELIEF REQUESTED: ☐ under \$100,000
☒ over \$100,000

Attorney Name: Paul W. Roop, II

Firm: ROOP LAW OFFICE

Address: Post Office Box 1145

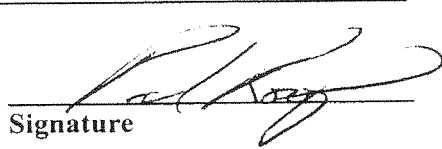
Beckley, West Virginia 25802-1145

Telephone: (304) 255-7667

Dated: 9/20/13

Representing:

- ☒ Plaintiffs
- ☐ Defendant
- ☐ Other (Identify) _____


Signature

CIVIL CASE INFORMATION STATEMENT
In the Circuit Court of Raleigh County, West Virginia

I. CASE STYLE:

Plaintiffs

Case # 13-C- 763-B

GARNETT BOWYER and
ALBERTA BOWYER

122 Heritage Place

Scott Depot, WV 25560

vs.

Defendant

**Days to
Answer**

Type of Service

AMERICAN CORADIUS INTERNATIONAL, LLC

2420 Sweet Home Road, Suite 150

Buffalo, NY 14228

30

Secretary of State

PLAINTIFFS'
Case Information Sheet
(Two copies to be filed with Memorandum to the Clerk)

PLAINTIFFS: Garnett Bowyer and Alberta Bowyer

CASE NO.: 13-C-

763-B

DEFENDANT: American Coradius International, LLC

II. TYPE OF CASE:

DOMESTIC RELATIONS

- ☐ Adoption
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- ☐ Mental Health
- ☐ Appeal from
Administrative Agency
- ☐ Appeal from
Magistrate Court
- ☒ Miscellaneous
Civil
- ☐ Extraordinary
Remedy

Explain:

III. JURY DEMAND: ☒ Yes ☐ No

IV. MONETARY RELIEF REQUESTED: ☐ under \$100,000
☐ over \$100,000

Attorney Name: Paul W. Roop, II

Firm: ROOP LAW OFFICE

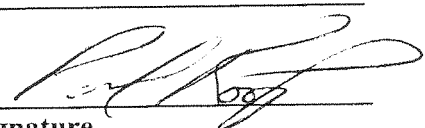
Address: Post Office Box 1145

Beckley, West Virginia 25802-1145

Telephone: (304) 255-7667

Dated: 9/20/13

Representing: ☒ Plaintiffs
☐ Defendant
☐ Other (Identify) _____


Signature

CIVIL CASE INFORMATION STATEMENT
In the Circuit Court of Raleigh County, West Virginia

I. CASE STYLE:

Plaintiffs

Case # 13-C- 763 B

GARNETT BOWYER and
ALBERTA BOWYER

122 Heritage Place

Scott Depot, WV 25560

vs.

Defendant

Days to
Answer

Type of Service

AMERICAN CORADIUS INTERNATIONAL, LLC

2420 Sweet Home Road, Suite 150

Buffalo, NY 14228

30

Secretary of State

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Natalie E. Tennant

Secretary Of State
State Of West Virginia
Phone: 304-558-6000
866-767-8683

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Paul H Flanagan
Raleigh County Courthouse
215 Main Street
Beckley, WV 25801-4688

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Control Number: 2782

Defendant: AMERICAN CORADIUS
INTERNATIONAL LLC
209 West Washington Street
Charleston, WV 25302 US

Agent: Corporation Service Company

County: Raleigh

Civil Action: 13-C-763-B

Certified Number: 92148901125134100000049019

Service Date: 10/1/2013

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, **not to the Secretary of State's office.***

Sincerely,

Natalie E. Tennant
Secretary of State

SUMMONS

CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

**GARNETT BOWYER and
ALBERTA BOWYER, his wife**

Plaintiffs,

vs.

Civil Action No: 13-C-

763-B

**AMERICAN CORADIUS
INTERNATIONAL LLC, a
Delaware limited liability company,**

Defendant.

To the above-named Defendant: American Coradius International LLC
c/o Corporation Service Company
209 West Washington Street
Charleston, WV 25302

RECEIVED
CLERK OF COURT
2013 OCT -1 PM 1:39
STATE OF WEST VIRGINIA
SECRETARY OF STATE

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon **Paul W. Roop, II, Attorney-at-Law**, plaintiffs' attorney, whose address is **P.O. Box 1145, Beckley, West Virginia 25802**, an answer, including any related counterclaim you may have, to the complaint if filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated: _____

9/24/13

Paul H. Farnham
Clerk of Court

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

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ALBERTA BOWYER, his wife**

Plaintiffs,

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763-B

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COUNT ONE

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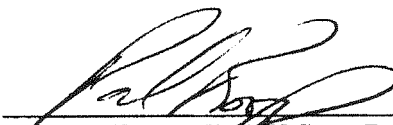
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**GARNETT BOWYER and
ALBERTA BOWYER,
BY COUNSEL**



Paul W. Roop, II (WV State Bar #5406)
ROOP LAW OFFICE, L.C.
111 Morning Star Lane
Beckley, WV 25801
Tel. (304) 255-7667

Civil Action Number 13-C-763-B
 Package Identification Code 92148901125134100000049019
 Signature Downloaded 10/7/2013 6:02:36 AM
 Defendant Name AMERICAN CORADIUS INTERNATIONAL LLC

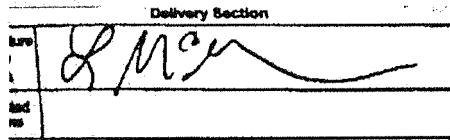


Date Produced: 10/07/2013

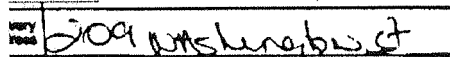
WEST VIRGINIA SECRETARY OF STATE:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 1251 3410 0000 0490 19. Our records indicate that this item was delivered on 10/03/2013 at 12:54 p.m. in CHARLESTON, WV 25302. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
 United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 4901

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 CIRCUIT CLERK
[Signature]

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

GARNETT BOWYER and
ALBERTA BOWYER,

Plaintiff,

Case No. 13-C-763-B

v.

AMERICAN CORADIUS INTERNATIONAL LLC,

Defendant.

DEFENDANT, AMERICAN CORADIUS INTERNATIONAL LLC'S,
NOTICE OF FILING NOTICE OF REMOVAL

PLEASE TAKE NOTICE that this action has been removed to the United States District Court for the Southern District of West Virginia, pursuant to the provisions of 28 U.S.C. §§ 1331, 1441, and 1446. Attached as **Exhibit A** is a copy of the Notice of Removal of the above-captioned suit filed on behalf of Defendant, American Coradius International LLC, in the United States District Court for the Southern District of West Virginia, on this date.

Respectfully submitted,



Albert C. Dunn, Jr., Esquire
(WVSB #5670)
Allen, Kopet & Associates, PLLC
P.O. Box 3029
Charleston, West Virginia 25331
Telephone: (304) 342-4567
Facsimile: (304) 342-4575

Counsel for Defendant,
American Coradius International LLC


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2013 NOV -1 AM 9:39

SW
CIRCUIT CLERK 

CERTIFICATE OF SERVICE

I certify that on this 30th day of October 2013, a true and correct copy of the foregoing was sent via email to plaintiff's counsel as described below.

Paul W. Roop, II, Esq.
Roop Law Office, L.C.
P.O. Box 1145
Beckley, WV 25802-1145
paulroop@rooplawoffice.com



Attorney

CIRCUIT CLERK

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JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS GARNETT BOWYER and ALBERTA BOWYER	DEFENDANTS AMERICAN CORADIUS INTERNATIONAL LLC
(b) County of Residence of First Listed Plaintiff <u>Putnam County, WV</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant <u>Erie County, NY</u> (IN U.S. PLAINTIFF CASES ONLY)
(c) Attorneys (Firm Name, Address, and Telephone Number) Paul W. Roop, II, Esq., Roop Law Office, L.C., P.O. Box 1145, Beckley, WV 25802-1145, (304) 237-5066	NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known) Albert C. Dunn, Jr., Esq., Allen, Kopet & Associates, PLLC, P.O. Box 3029, Charleston, WV 25331, (304) 342-4567

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Citizen of This State</th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> <th style="text-align: left;">Incorporated or Principal Place of Business in This State</th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> </tr> <tr> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in This State	PTF	DEF	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4	<input type="checkbox"/> 4	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5	<input type="checkbox"/> 5	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in This State	PTF	DEF																				
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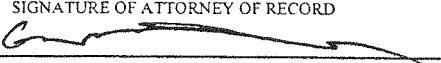
IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HLA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)					
<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq.</u> Brief description of cause: <u>Plaintiff is alleging violations of the TCPA.</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____ DOCKET NUMBER _____
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DATE	SIGNATURE OF ATTORNEY OF RECORD	<div style="border: 2px solid black; padding: 5px; display: inline-block;"> EXHIBIT <div style="font-size: 2em; margin-top: 10px;">A</div> </div>
10/30/13		
FOR OFFICE USE ONLY	RECEIPT #	AMOUNT
	APPLYING IFP	JUDGE
		MAG.

JS 44 Reverse (Rev. 12/12)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. **Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

GARNETT BOWYER and
ALBERTA BOWYER,

Plaintiff,

Case No.

v.

AMERICAN CORADIUS INTERNATIONAL LLC,

Defendant.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, defendant, American Coradius International LLC (ACI), hereby removes the above-captioned civil action from the Circuit Court of Raleigh County, West Virginia, to the United States District Court for the Southern District of West Virginia. The removal of this civil case is proper because:

1. ACI is the only defendant in this civil action in the Circuit Court of Raleigh County, West Virginia, titled *Garnett Bowyer and Alberta Bowyer v. American Coradius International LLC*, Case No. 13-C-763-B (hereinafter, the “State Court Action”).

2. ACI removes this case on the basis of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, as plaintiffs’ Complaint claims relief based on abusive practices in violation of federal law and Federal Courts, therefore, have federal question jurisdiction over such claims.

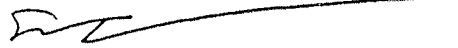
3. Attached hereto as **Exhibit A** and incorporated by reference as part of the Notice of Removal are true and correct copies of the process and pleadings in the State Court Action. No further proceedings have taken place in the State Court Action.

4. A copy of this Notice of Removal is being served upon plaintiff and filed concurrently with the Clerk of the Circuit Court of Raleigh County, West Virginia.

WHEREFORE, Defendant, American Coradius International LLC, hereby removes to this Court the State Court Action.

Date: October 30, 2013

Respectfully submitted,



Albert C. Dunn, Jr., Esquire
(WVSB #5670)
Allen, Kopet & Associates, PLLC
P.O. Box 3029
Charleston, West Virginia 25331
Telephone: (304) 342-4567
Facsimile: (304) 342-4575

Counsel for Defendant,
American Coradius International LLC

CERTIFICATE OF SERVICE

I certify that on this 30 day of October 2013, a true and correct copy of the foregoing was sent via email to plaintiff's counsel as described below.

Paul W. Roop, II, Esq.
Roop Law Office, L.C.
P.O. Box 1145
Beckley, WV 25802-1145
paulroop@rooplawoffice.com



Attorney

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305

USPS CERTIFIED MAIL™



9214 8901 1251 3410 0000 0490 19

AMERICAN CORADIUS INTERNATIONAL LLC
Corporation Service Company
209 West Washington Street
Charleston, WV 25302



Natalie E. Tennant
Secretary Of State
State Of West Virginia
Phone: 304-558-6000
866-767-8683
Visit us online:
www.wvsos.com

Control Number: 2782

Defendant: AMERICAN CORADIUS
INTERNATIONAL LLC
209 West Washington Street
Charleston, WV 25302 US

Agent: Corporation Service Company

County: Raleigh

Civil Action: 13-C-763-B

Certified Number: 92148901125134100000049019

Service Date: 10/1/2013

I am enclosing:

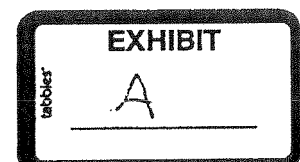
1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Natalie E. Tennant
Secretary of State



SUMMONS

CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

GARNETT BOWYER and
ALBERTA BOWYER, his wife

Plaintiffs,

vs.

Civil Action No: 13-C- 763-B

AMERICAN CORADIUS
INTERNATIONAL LLC, a
Delaware limited liability company,

Defendant.

To the above-named Defendant: American Coradius International LLC
c/o Corporation Service Company
209 West Washington Street
Charleston, WV 25302

ACCEPTED FOR
SERVICE OF PROCESS
2013 OCT -1 PM 1:39
SECRETARY OF STATE
STATE OF WEST VIRGINIA

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon **Paul W. Roop, II, Attorney-at-Law**, plaintiffs' attorney, whose address is **P.O. Box 1145, Beckley, West Virginia 25802**, an answer, including any related counterclaim you may have, to the complaint if filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated: 9/24/13

Paul H. Flanagan
Clerk of Court